

# Complaint about Clark County Prosecutor Golik filed with bar

## Harvey's brother alleges violations of standards

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Tony Golik  
(TBA)

A brother of Clark County Senior Deputy Prosecutor Alan Harvey, who is being investigated for alleged professional misconduct, has filed a state bar complaint accusing Prosecuting Attorney Tony Golik of violating professional standards.

The complaint by Mountain View High School teacher John Harvey, who formerly was one of Golik's election campaign supporters, also includes allegations of misconduct against Alan Harvey's direct supervisor, Chief Criminal Deputy Prosecutor Scott Jackson, as well as Deputy Prosecutor Anne Cruser and veteran defense attorney Jeff Sowder.

John Harvey accuses them of seeking to improperly seal court records and accuses Golik of protecting Sowder, a former political rival of Golik's who later dropped out of the 2010 prosecutor's race and endorsed Golik.

Golik, Jackson, Cruser and Sowder all were involved in a court case that apparently precipitated the probe into Alan Harvey's professional conduct.

"In a review of that complaint, I am confident the bar will find no misconduct" Golik said in a phone interview with The Columbian. "Mr. Harvey fails to state anything that even comes close to violating the rules of professional conduct."

Alan Harvey, who has been with the prosecutor's office since 1999, was placed on paid administrative leave Dec. 11 for reasons related to his conduct at a Dec. 5 resentencing hearing for convicted child rapist Steven Dillon, according to a letter from Jackson to Alan Harvey, which was obtained by The Columbian.

A Clark County jury convicted in 2009 of both kidnapping and raping a 13-year-old boy.

The state Court of Appeals later ruled that Dillon wasn't guilty of kidnapping because the boy consented to going to Dillon's home. As a result, Dillon had to be resentenced, even though it didn't change his prison sentence: 25 years.

During the Dec. 5 hearing, Alan Harvey brought attention to records in Dillon's 2008 rape case and related 2011 perjury case that Harvey said were improperly sealed. The sealed records consisted of Oct. 4, 2011, motions by Harvey to disqualify Sowder from representing Dillon. In the motions, Harvey accused Sowder of being an accomplice to perjury in the 2011 case.

Golik has said there was no evidence to support Alan Harvey's accusation that Sowder committed perjury. Furthermore, Golik said Harvey filed the Oct. 4, 2011, motion to disqualify Sowder without his permission.

"Part of my duty as prosecutor is to make sure those in my department do not make criminal accusations against anyone without a sufficient factual basis to support the allegations," Golik said.

He said he ordered Crusier to contact Sowder and, by agreement, strike the motion and ask then-Judge John Wulle to seal it. Wulle agreed to seal the motion on Oct. 6, 2011, during a closed hearing.

Dillon and the victim weren't notified of the court proceeding, and there was no written explanation to support sealing the court documents, as required by court rules.

"When I and the rest of the leadership team reviewed Alan's motion alleging Mr. Sowder committed a felony, there was clearly insufficient factual basis to make that allegation," Golik said. "That is the reason and the only reason we moved to strike and seal that motion, because it should never have been filed in the first place."

Golik said he wanted to protect Sowder from the repercussions of such an allegation and to protect his office from a potential libel lawsuit by Sowder.

For unknown reasons, Wulle later unsealed the motion in the rape case, which was assigned to Superior Court Judge Rich Melnick, but left the motion sealed in the perjury case, which was assigned to Wulle.

He did so without notifying any of the lawyers involved in the case, which also is required by court rules, Sowder said.

Wulle, who is no longer a judge, has said he has no memory of the hearing.

## Issue resurfaces

The issue resurfaced on Dec. 5, 2013. Alan Harvey and Sowder appeared in front of Melnick to discuss Dillon's resentencing in the rape case.

Harvey again sought to disqualify Sowder, this time from the rape case. One of Harvey's supporting arguments was that Sowder had been involved in Dillon's perjury case and had been involved in the motion to seal the related court records. Melnick agreed to disqualify Sowder to avoid any potential conflict of interest, but the judge said he found no evidence Sowder had committed wrongdoing.

Melnick then assigned Vancouver attorney Bob Vukanovich to replace Sowder as Dillon's attorney for the resentencing.

Vukanovich said that when he learned about the sealed records, he decided to ask Melnick to vacate Dillon's perjury conviction.

Melnick dismissed the perjury case against Dillon on Jan. 27, saying the way the records were sealed represented a "manifest injustice."

Melnick also ordered that Harvey's motion to disqualify Sowder in the perjury case be unsealed.

John Harvey declined to answer whether Alan Harvey had played a role in the decision to file the bar complaint or its composition.

"I filed the bar complaint because it really does appear as if these individuals violated the law, and Judge Melnick appears to agree," John Harvey said in a phone interview with The Columbian.

Mark Makler, general counsel for the Clark County Prosecutors Guild, said Golik and Jackson suspended Alan Harvey without cause.

Makler said he believes Harvey is a "whistle-blower" who had a right to complain about unprofessional conduct by Golik's "henchmen."

By exposing what "Tony brushed under the rug," Alan Harvey "essentially wasn't doing what Tony wanted him to do," Makler said.

Cruser responded in an email to The Columbian that the bar complaint is "a red herring that Alan Harvey wants you to follow in an effort to deflect attention from his misconduct toward Mr. Sowder."

Sowder said that if Cruser had not moved to strike and seal Harvey's motion containing the allegation of perjury, he would have sued the prosecutor's office for libel. He said he's now considering filing his own bar complaint against Harvey for making the false accusation. He said there also are questions about which court rules applied when the court records were sealed.

Cruser said the bar complaint may also be retaliation against her for serving as a witness in a hostile work environment investigation against Alan Harvey.

“I find it interesting that this was not disclosed by Harvey’s brother when he filed the bar complaint,” Crusier wrote.

Chief Deputy Prosecutor John Fairgrieve confirmed Friday that a complaint against Harvey was filed with Clark County Human Resources on May 21. Human Resources investigated the allegations and then issued a report Oct. 31, 2013. The Columbian has requested a copy of the report, but it was not available at press time.

The Washington State Bar Association doesn’t release copies of complaints against lawyers to the public unless the bar association decides the complaint has validity and schedules a disciplinary hearing, said spokeswoman Debra Carnes. If the complaint is dismissed, the bar association would never make the complaint public. The Columbian obtained a copy of John Harvey’s complaint because he submitted a copy to Judge Melnick as part of Dillon’s resentencing hearing.

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